

REMARKS:

This paper is herewith filed in response to the Examiner's Office Action mailed on August 21, 2007 for the above-captioned U.S. Patent Application. This office action is a rejection of claims 1-3, 5-15, 17-24, 39-41, and 43-51 of the application.

More specifically, the Examiner has rejected claims 2-3, 14-15, and 40-41 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; rejected claims 1-2, 5-14, 17-24, 39-40, and 43-50 under 35 USC 103(a) as being unpatentable over anticipated Young (US 6,346,832) in view of Moyer (US 6,566,911); rejected claim 51 under 35 USC 103(a) as being unpatentable over the modified communication apparatus of Young and Moyer and further in view of Pena-Finol et. al. (US 5,832,370); indicated that claims 3, 15, and 41 would be allowable if rewritten to overcome the rejections under 35 USC 112, second paragraph, and to include all the limitations of the base claim and any intervening claims; and indicated that claims 4, 16, and 42 would be allowable if rewritten to include all the limitations of the base claim and any intervening claims. The Applicants thank the Examiner for the indication of allowed claims and respectfully traverses the rejections.

Regarding the rejections under 35 USC 112, second paragraph, claims 2-11, 14-23, and 40-49 have been amended for clarification. Support for the amendments can be found at least on page 10, lines 24-30 and page 15, lines 9-11. No new matter is added. The rejections of these claims under 35 USC 112, second paragraph, are now seen as overcome and the rejections should be removed.

Regarding the rejections of claims 1-2, 5-14, 17-24, 39-40, and 43-50 under 35 USC 103(a) over Young in view of Moyer the Applicants note that the attached Declaration under Rule 131 disqualifies Moyer as prior art against this application. More specifically, Exhibit A as referenced by the declaration show conception at least as early as April 19, 2001. The earliest date for Moyer is seen to be May 18, 2001.

The undersigned attests to the following as to diligence. The docket/reference number NC33004 and 872.0100.U1(US) each refer to the subject matter of this application.

Exhibit A is an invention report based thereon that was considered by a patent committee of the Nokia Corporation of Espoo, Finland, April 19, 2001 as evidenced by Exhibit B. This independently proves the asserted date of conception. On May 18, 2001 the Nokia Corporation tasked the firm Harrington & Smith LLP to prepare and file a non-provisional US patent application based on that subject matter, as evidenced by Exhibit C.

Exhibit D shows diligence in preparing the application during and up to September 2001, when a first draft of the application text (referenced) was sent for inventor review prior to Exhibit D, which sent the drawings for the application to the inventors for comment. Note that the Inventor's declaration on file was signed on October 31, 2001.

Furthermore, caselaw holds that once an invention is submitted to an attorney for drafting of a patent application, diligence is satisfied when the attorney takes up work in a reasonable order. "[D]ecisions (as to the order in which a patent attorney prepares cases) recognize that the pressure of other business on a patent attorney may be a sufficient excuse for delay in filing provided the attorney takes up work in a reasonable order..." *Chisum on Patents*, vol 3, ch. 10.07[4][e] (Matthew Bender & Co., Inc., Rel. 82-3/02). Gould v. Schawlow, 150 USPQ 634 (CCPA 1966); Rines v. Morgan, 116 USPQ 145, 148 (CCPA 1957) ("it is not necessary that an inventor or his attorney should drop all other work and concentrate on the particular invention involved; and if the attorney has a reasonable backlog of work which he takes up in chronological order and carries out expeditiously, that is sufficient."). The undersigned asserts that based on a personal interview, the attorney preparing the case had a reasonable backlog of patent cases that he took up in a reasonable order during the entire period from May 18, 2001 to September 2, 2001.

The undersigned attests that exhibits A through D are true copies; acknowledges that statements made above are true or made on information believed to be true; and further acknowledges that any willful false statements are punishable by fine or imprisonment or both under 18 USC 1001.

The Applicants note that phone numbers were blanked out on Exhibit B as the phone numbers do not go to the substance of the Exhibit. Further, written notes were blanked out

on Exhibit C as the blanked notes do not go to the substance of Exhibit C and/or were made after the date of Exhibit C.

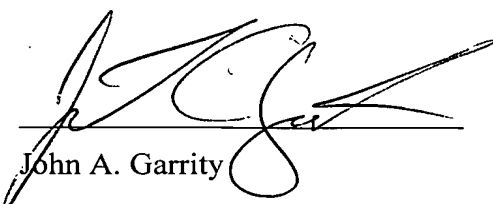
The application was filed on November 2, 2001. Therefore, for at least the reasons stated conception is shown prior to the earliest date of Moyer and diligence is shown from then until constructive reduction to practice which occurred no later than November 2, 2001 when the subject application was filed with the US patent office.

Being that Moyer is not prior art against this application, for at least this reason claims 1-51 are seen to be in condition for allowance.

Based on the above explanations and arguments, it is clear that the references cited cannot be seen to disclose or suggest claims 1-24 and 25-51. The Examiner is respectfully requested to reconsider and remove the rejections of claims 1-24 and 25-51 and to allow all of the pending claims 1-24 and 25-51 as now presented for examination.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Should any unresolved issue remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted:



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450.

12/20/2007

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